

Senate Bill No. 2202

CHAPTER 740

An act to repeal Section 12171 of the Public Contract Code, and to amend Sections 40912, 41770, 41780, 41821, 41821.1, 41821.5, 41825, and 41850 of, to amend, repeal, and add Section 41821.2 of, and to add Section 40977 to, the Public Resources Code, relating to recycling.

[Approved by Governor September 25, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2202, Committee on Environmental Quality. Solid waste management: diversion: reports.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Under existing law, the act requires each city, county, city and county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. For the first revision of the element, those entities are required to divert, by January 1, 2000, from disposal or transformation, 50% of the solid waste through source reduction, recycling, and composting subject to the element, except as specified.

This bill would require the first and each subsequent revision to provide for this diversion on and after January 1, 2000, and would require the board by July 1, 2001, to develop a model revised source reduction and recycling element. The bill would require the board to provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the diversion requirement.

(2) Existing law requires a city, county, or regional agency to submit an annual report to the board summarizing its progress in diverting solid waste from disposal. The report is required to include, among other things, information relevant to compliance with the solid waste diversion requirements.

This bill would authorize a city, county, or regional agency to include, in the report, information about existing and new programs that are not part of the original or modified source reduction and recycling element. The bill would also authorize those entities to include information regarding any factor that the jurisdiction believes affects the accuracy of the waste reduction calculations in the report to accurately reflect the changes in the amount of solid waste that is actually disposed, and information regarding certain

programs that are being undertaken by the jurisdiction. The bill would authorize a jurisdiction to also provide the board, in the report, an estimate that jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste. The bill would require the board to adopt procedures for requiring additional information in the report and conferring with jurisdiction regarding the implementation of a diversion program or the calculations of the annual disposal reduction.

(3) Existing law requires a county or regional agency to submit an annual report to the board summarizing the adequacy of the siting element and summary plan.

This bill would require the board to adopt procedures to authorize a jurisdiction to submit an abbreviated version of the report if the board determines that jurisdiction meets specified conditions.

(4) Existing law requires a community service district that provides solid waste handling services or that implements source reduction and recycling programs to provide the city, county, or regional agency in which it is located information on the programs implemented by the district and the amount of waste disposed and diverted within the district. Existing law authorizes a city or county to form a regional agency with another city or county for purposes of complying with the act.

This bill would, as of July 1, 2001, revise the information that a district is required to provide, and would require a district to comply with the source reduction and recycling element and household hazardous waste element of the jurisdiction in which the district is located. The bill would authorize a district to impose a fee, in a specified manner, for the costs of complying with these requirements. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

The bill would authorize the imposition of penalties upon a district in proportion to the districts' responsibility for its failure to implement those elements.

This bill would allow a regional agency to authorize such a district to be included as a member of the regional agency.

(5) Existing law requires disposal facility operators and recycling and composting facilities to submit periodic tracking information to counties.

This bill would require the board to submit a report to the Legislature by January 1, 2002, evaluating the implementation of the periodic tracking survey requirements.

(6) Existing law authorizes the board to issue an order of compliance with a specific schedule for achieving compliance, if the board finds that the city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element.

This bill would require the board to issue a notice of intent, pursuant to a specified procedure, at least 30 days before the board holds a hearing to issue an order of compliance.

(7) Existing law, which is repealed on January 1, 2001, requires all state agencies to purchase specified recycled products, including rerefined automotive lubricants, recycled antifreeze fluid, recycled solvent, and recycled paint, instead of nonrecycled products, whenever the recycled products are available at the same cost, or at a lower cost, than the total costs of the nonrecycled products.

This bill would delete the provision repealing those provisions on January 1, 2001, thereby continuing those requirements indefinitely.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 12171 of the Public Contract Code is repealed.

SEC. 2. Section 40912 of the Public Resources Code is amended to read:

40912. (a) The board shall develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2001, the board shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, regional agencies, or a city and county may use in meeting the requirements of this part.

(c) The board shall adopt a program to provide assistance to cities, counties, regional agencies, or a city and county in the development and implementation of source reduction programs. The program shall include, but not be limited to, the following:

(1) The development of model source reduction programs and strategies that may be used at the local and regional level.

(2) Ongoing analysis of public and private sector source reduction programs that may be provided to cities, counties, regional agencies, and a city and county in order to assist them in complying with Article 3 (commencing with Section 41050) of Chapter 2 and Article 3 (commencing with Section 41350) of Chapter 3.

(3) Assistance to cities, counties, regional agencies, and a city and county in the development of source reduction programs for

commercial and industrial generators of solid waste that include the development of source reduction strategies designed for specific types of commercial and industrial generators.

(d) The board shall, to the maximum extent feasible, utilizing existing resources, provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the 50-percent diversion requirement pursuant to Section 41780. The board shall act as a solid waste information clearinghouse.

SEC. 3. Section 40977 is added to the Public Resources Code, to read:

40977. A regional agency may authorize one district, as defined in subdivision (a) of Section 41821.2, to be included as a member of the regional agency.

SEC. 4. Section 41770 of the Public Resources Code is amended to read:

41770. (a) Each countywide or regional agency integrated waste management plan, and the elements thereof, shall be reviewed, revised, if necessary, and submitted to the board every five years in accordance with the schedule set forth under Chapter 7 (commencing with Section 41800).

(b) Any revisions to a countywide or regional agency integrated waste management plan, and the elements thereof, shall use a waste disposal characterization method that the board shall develop for the use of the city, county, city and county, or regional agency. The city, county, city and county, or regional agency shall conduct waste disposal characterization studies, as prescribed by the board, if it fails to meet the diversion requirements of Section 41780, at the time of the five-year revision of the source reduction and recycling element.

(c) The board may review and revise its regulations governing the contents of revised source reduction and recycling elements to reduce duplications in one or more components of these revised elements.

SEC. 5. Section 41780 of the Public Resources Code is amended to read:

41780. (a) Each city or county source reduction and recycling element shall include an implementation schedule which shows both of the following:

(1) For the initial element, the city or county shall divert 25 percent of all solid waste from landfill disposal or transformation by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783, 41784, and 41785, for the first and each subsequent revision of the element, the city or county shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

(b) Nothing in this part prohibits a city or county from implementing source reduction, recycling, and composting activities designed to exceed these goals.

SEC. 6. Section 41821 of the Public Resources Code is amended to read:

41821. (a) (1) Each year following the board's approval of a city, county, or regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780.

(2) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in population, economics, or other factors in complying with subdivision (c) of Section 41780.1.

(3) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element. The city, county, or regional agency may also include information about existing and new programs it is implementing that are not part of the original or modified source reduction and recycling element adopted by the jurisdiction and approved by the board to achieve the diversion requirements of Section 41780.

(4) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the jurisdiction's plan of correction, prior to the expiration of the time extension.

(5) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(6) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

(1) Any factor that the jurisdiction believes would affect the accuracy of the estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:

(A) Whether the jurisdiction hosts a solid waste facility.

(B) The effects of self-hauled waste and construction and demolition waste.

(C) The original or subsequent base year calculation, the amount of orphan waste, and the waste disposal reduction adjustment methodology.

(2) Information regarding the programs the jurisdiction is undertaking to respond to the factors specified in paragraph (1), and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

(3) An estimate that the jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste.

(d) The board shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised.

(e) (1) The board shall adopt procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving such a request for information shall respond in a timely manner.

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of a diversion program or changes to a jurisdiction's calculation of its annual disposal reduction.

SEC. 7. Section 41821.1 of the Public Resources Code is amended to read:

41821.1. (a) Each year following the board's approval of a county or regional agency's siting element and summary plan, the county or regional agency shall submit a report to the board summarizing the adequacy of the siting element and summary plan. The report on the siting element shall discuss any changes in disposal capacity, disposal facilities, or any other relevant issues. The annual report shall be due on or before August 1 of the year following board approval of a county or regional agency's siting element and summary plan, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) The board shall adopt procedures that may authorize a jurisdiction to submit an abbreviated version of the report required pursuant to this section, if the board determines that the jurisdiction has met or exceeded the requirements of paragraph (2) of subdivision (a) of Section 41780 for the previous two years, and if the board determines that the jurisdiction has otherwise complied with this division for the previous five years.

SEC. 8. Section 41821.2 of the Public Resources Code is amended to read:

41821.2. (a) For the purposes of this section, “district” means a community service district that provides solid waste handling services or implements source reduction and recycling programs.

(b) Notwithstanding any other law, each district shall provide the city, county, or regional agency in which it is located, information on the programs implemented by the district and the amount of waste disposed and diverted within the district. The board may adopt regulations pertaining to the format of the information to be provided and deadlines for supplying this information to the city, county, or regional agency so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.

(c) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 41821.2 is added to the Public Resources Code, to read:

41821.2. (a) For the purposes of this section, “district” means a community service district or sanitary district that provides solid waste handling services or implements source reduction and recycling programs.

(b) Notwithstanding any other law, each district shall do all of the following:

(1) Comply with the source reduction and recycling element and the household hazardous waste element of the city, county, or regional agency in which the district is located, as required by the city, county, or regional agency. The city, county, or regional agency shall notify a district of any program that it is implementing or modifying when it annually submits a report to the board pursuant to Section 41821.

(2) Provide each city, county, or regional agency in which it is located, information on the programs implemented by the district, the amount of waste disposed and reported to the disposal tracking system pursuant to Section 41821.5 for each city, county, or regional agency, and the amount of waste diverted by the district for each city, county, or regional agency.

(c) The board may adopt regulations pertaining to the format of the information to be provided pursuant to paragraph (2) of

subdivision (b) and deadlines for supplying this information to the city, county, or regional agency, so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.

(d) A district is subject to the portion of a penalty imposed, pursuant to Section 41850, upon a city, county, or regional agency in which the district is located, that is in proportion to the district's responsibility for failure to implement that jurisdiction's source reduction and recycling element and household hazardous waste element, as determined by that city, county, or regional agency. The board shall not determine the proportion of a district's responsibility as part of its determination to impose penalties. The city, county, or regional agency shall provide the district with a written notice regarding the district's responsibility, including the basis for determining the district's proportional responsibility, and an opportunity for hearing before the city, county, or regional agency's governing body, before assessing the district a proportion of the penalty imposed by the board.

(e) A district may impose a fee in an amount sufficient to pay for the costs of complying with this section. The fees shall be assessed and collected in the same manner as the fees imposed pursuant to Sections 41901 and 41902.

(f) This section shall become operative on July 1, 2001.

SEC. 10. Section 41821.5 of the Public Resources Code is amended to read:

41821.5. (a) Disposal facility operators shall submit to counties information from periodic tracking surveys on the disposal tonnages by jurisdiction or region of origin that are disposed of at each disposal facility. To enable disposal facility operators to provide that information, solid waste handlers and transfer station operators shall provide information to disposal facility operators on the origin of the solid waste that they deliver to the disposal facility.

(b) Recycling and composting facilities shall submit periodic information to counties on the types and quantities of materials that are disposed of, sold to end users, or that are sold to exporters or transporters for sale outside of the state, by county of origin. When materials are sold or transferred by one recycling or composting facility to another, for other than an end use of the material or for export, the seller or transferee of the material shall inform the buyer or transferee of the county of origin of the materials. The reporting requirements of this subdivision do not apply to entities that sell the byproducts of a manufacturing process.

(c) Each county shall submit periodic reports to the cities within the county, to any regional agency of which it is a member agency, and to the board, on the amounts of solid waste disposed by jurisdiction or region of origin, as specified in subdivision (a), and on the categories and amounts of solid waste diverted to recycling and

composting facilities within the county or region, as specified in subdivision (b).

(d) The board may adopt regulations pursuant to this section requiring practices and procedures that are reasonable and necessary to perform the periodic tracking surveys required by this section, and that provide a representative accounting of solid wastes that are handled, processed, or disposed. Those regulations or periodic tracking surveys approved by the board shall not impose an unreasonable burden on waste handling, processing, or disposal operations or otherwise interfere with the safe handling, processing, and disposal of solid waste.

(e) On or before January 1, 2002, the board shall submit a report to the Legislature that evaluates the implementation of this section. The report shall include, but not be limited to, all of the following:

(1) An evaluation of the accuracy of the disposal reporting system under differing circumstances.

(2) The status of implementation of the disposal reporting system at the local level by waste haulers, landfills, transfer station and material recovery operators, and local agencies.

(3) The need for modification of the disposal reporting system to improve accuracy.

(4) Recommendations for regulatory and statutory changes needed to address deficiencies in the disposal reporting system.

(5) Recommendations to improve implementation and to streamline the reporting system, including ways to assist agencies to meet the reporting and tracking requirements.

(f) The board shall convene a working group composed of representatives of stakeholder groups, including, but not limited to, cities, counties, regional agencies, the solid waste industry, recyclers, and environmental organizations, to assist the board in preparing the report required pursuant to subdivision (e).

SEC. 11. Section 41825 of the Public Resources Code is amended to read:

41825. (a) At least once every two years, the board shall review each city, county, or regional agency source reduction and recycling element and household hazardous waste element.

(b) If after a public hearing, which, to the extent possible, is held in the local or regional agency's jurisdiction, the board finds that the city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element, the board shall issue an order of compliance with a specific schedule for achieving compliance. The compliance order shall include those conditions that the board determines to be necessary for the local agency or regional agency to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(c) (1) The board shall confer with a jurisdiction regarding conditions relating to a proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

(2) The board shall issue a notice of intent to issue an order of compliance not less than 30 days before the board holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) Proposed actions that board staff recommends are necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(C) Proposed staff recommendations to the board.

(3) The board shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal reduction.

SEC. 12. Section 41850 of the Public Resources Code is amended to read:

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, or regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, or regional agency implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, or regional agency, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a city, county, or regional agency from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or regional agency that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a city, county, or regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction on the host jurisdiction's ability to meet the requirements of paragraph (2) of subdivision (a) of Section 41780.

(c) In addition to the factors specified in subdivision (b), the board shall consider all of the following:

(1) The extent to which a city, county, or regional agency has implemented additional source reduction, recycling, and composting activities to comply with the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

(2) The extent to which a city, county, or regional agency is meeting the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.

(3) Whether the jurisdiction has requested and been granted an extension to the requirements of Section 41780, pursuant to Section 41820, or an alternative requirement to Section 41780, pursuant to Section 41785.

(d) (1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a city, county, or regional agency to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section "good faith effort" may also include the evaluation by a city, county, or regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or regional agency to meet the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, provided that the city, county, or regional agency has submitted a compliance schedule pursuant to Section 41825, and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level

of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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